

AN ACT
RELATING TO TAXATION; AMENDING A PROVISION OF THE GROSS
RECEIPTS AND COMPENSATING TAX ACT REGARDING NONTAXABLE
TRANSACTION CERTIFICATES; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-9-43 NMSA 1978 (being Laws 1966, Chapter 47, Section 13, as amended) is amended to read:

"7-9-43. NONTAXABLE TRANSACTION CERTIFICATES AND OTHER EVIDENCE REQUIRED TO ENTITLE PERSONS TO DEDUCTIONS--RENEWAL.--

A. All nontaxable transaction certificates of the appropriate series executed by buyers or lessees should be in the possession of the seller or lessor for nontaxable transactions at the time the return is due for receipts from the transactions. If the seller or lessor is not in possession of the required nontaxable transaction certificates within sixty days from the date that the notice requiring possession of these nontaxable transaction certificates is given the seller or lessor by the department, deductions claimed by the seller or lessor that require delivery of these nontaxable transaction certificates shall be disallowed; provided, however, that with respect to a transaction occurring prior to July 1, 1997, if the seller or lessor has been audited by the department and a deduction claimed by the seller or lessor for the transaction has been disallowed on the grounds that the seller or lessor was not in possession of the required nontaxable transaction certificate at the required time, the seller or lessor has filed a written protest with the

department in a timely manner and the seller or lessor has appealed the hearing officer's decision on the protest, then the seller or lessor shall have until September 30, 1999 to demonstrate to the department possession of a nontaxable transaction certificate of the appropriate series executed by the buyer or lessee, in which case the department shall allow the deduction for the transaction and shall not assess penalties or interest. The nontaxable transaction certificates shall contain the information and be in a form prescribed by the department. The department by regulation may deem to be nontaxable transaction certificates documents issued by other states or the multistate tax commission to taxpayers not required to be registered in New Mexico. Only buyers or lessees who have a registration number or have applied for a registration number and have not been refused one under Subsection C of Section 7-1-12 NMSA 1978 shall execute nontaxable transaction certificates issued by the department. If the seller or lessor has been given an identification number for tax purposes by the department, the seller or lessor shall disclose that identification number to the buyer or lessee prior to or upon acceptance of a nontaxable transaction certificate. When the seller or lessor accepts a nontaxable transaction certificate within the required time and in good faith that the buyer or lessee will employ the property or service transferred in a nontaxable manner, the properly executed nontaxable transaction certificate shall be conclusive evidence, and the only material evidence, that the proceeds from the transaction are deductible from the seller's or lessor's gross receipts.

B. Properly executed documents required to support the deductions provided in Sections 7-9-57, 7-9-58 and 7-9-74 NMSA 1978 should be in the possession of the seller at the time the return is due for receipts from the transactions. If the seller is not in possession of these documents within sixty days from the date that the notice requiring possession of these documents is given to the seller by the department, deductions claimed by the seller or lessor that require delivery of these documents shall be disallowed. These documents shall contain the information and be in a form prescribed by the department. When the seller accepts these documents within the required time and in good faith that the buyer will employ the property or service transferred in a nontaxable manner, the properly executed documents shall be conclusive evidence, and the only material evidence, that the proceeds from the transaction are deductible from the seller's gross receipts.

C. Notice, as used in this section, is sufficient if the notice is mailed or served as provided in Subsection A of Section 7-1-9 NMSA 1978. Notice by the department under this section shall not be given prior to the commencement of an audit of the seller required to be in possession of the documents.

D. On January 1, 1992, every nontaxable transaction certificate, except for nontaxable transaction certificates of the series applicable to the ten-year period beginning January 1, 1992 and issued by the department prior to that date, is void with respect to transactions after December 31, 1991. The department shall issue separate series of nontaxable transaction certificates for the ten-

year period beginning January 1, 1992 and for each ten-year period beginning on January 1 of every tenth year succeeding calendar year 1992. A series of nontaxable transaction certificates issued by the department for any ten-year period may be executed by buyers or lessees for transactions occurring within or prior to that ten-year period but is not valid for transactions occurring after that ten-year period. For administrative convenience, the department may accept and approve qualifying applications for the privilege of executing nontaxable transaction certificates and pre-issue certificates of any series within the six-month period immediately preceding the beginning of the ten-year period to which the series of nontaxable transaction certificates applies.

E. To exercise the privilege of executing appropriate nontaxable transaction certificates, a buyer or lessee shall apply to the department for permission to execute nontaxable transaction certificates, except with respect to documents issued by other states or the multistate tax commission that the department has deemed to be nontaxable transaction certificates. If a person is shown on the department's records to be a delinquent taxpayer, the department may refuse to approve the application of the person until the person is no longer shown to be a delinquent taxpayer, and the taxpayer may protest that refusal pursuant to Section 7-1-24 NMSA 1978. Upon the department's approval of the application, the buyer or lessee may request appropriate nontaxable transaction certificates for execution by the buyer or lessee; provided that if a person is shown on the department's records to be

a delinquent taxpayer, the department may refuse to issue nontaxable transaction certificates to the person until the person is no longer shown to be a delinquent taxpayer, and the taxpayer may protest that refusal pursuant to Section 7-1-24 NMSA 1978. The department may require any buyer or lessee requesting and receiving nontaxable transaction certificates for execution by that buyer or lessee to report to the department annually the names, addresses and identification numbers assigned by the department of the sellers and lessors to whom they have delivered nontaxable transaction certificates. The department may require any seller or lessor engaged in business in New Mexico to report to the department annually the names, addresses and federal employer identification numbers or state identification numbers for tax purposes issued by the department of the buyers or lessees from whom the seller or lessor has accepted nontaxable transaction certificates."

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Section 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____